IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3602 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

==========

STATE OF GUAJRAT THR' SECRETARY & 2 - Appellant(s)
Versus
KANTABEN ASHOKBHAI PARMAR & 3 - Defendant(s)

==========

Appearance :
MS TANUJA KACHCHHI, ASST.OVERNMENT PLEADER for Appellant(s) : 1 - 3.
MR YV SHAH for Defendant(s) : 1,
None for Defendant(s) : 2 - 4.

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/04/2007

ORAL JUDGMENT

Admit.

1. Mr. Y.V.Shah, learned Advocate appears and

waives service of notice of this Appeal on behalf of the respondents- original claimants. With the consent of the learned Advocates appearing on behalf of the parties this First Appeal is taken up for final hearing today. In the facts and circumstances of the case and considering the dispute and the controversy involved in the appeal, paper book and printing is dispensed with.

2. Ms. Tanuja Kachchhi, learned Assistant Government Pleader has vehemently submitted that the learned Commissioner for Workmen Compensation, Labour Court, Godhra while passing the impugned judgment and order has passed an order that if the amount of compensation as ordered is not deposited within 30 days, in that case, the appellants will have to pay penal interest at the rate of 18%. According to Ms. Kachchhi, learned Assistant Government Pleader the same is not permissible under the Provisions of Workmen Compensation Act; 1923. She has also tried to challenge judgment and order passed by the learned Trial Court awarding compensation of Rs. 1,28,145/- (Rupees One lac Twenty Eight Thousand One Hundred and Forty Five only) as well as penalty of 50%, which

comes to Rs. 64071/- (Rupees Sixty Four Thousand and Seventy one only).

3. Considering the judgment and order passed by the learned Trial Court and the relevant evidence shown by Shri Y.V.Shah, learned Advocate appearing on behalf of the respondents- original claimants, so far as the amount of compensation awarded by the learned trial Court is concerned, it cannot be said that there is any substantial question of law involved. The order passed by the Commissioner for Workmen Compensation cannot be faulted with and to that extent the appeal is required to be dismissed and the order is required to be confirmed. However, Ms. Kachchhi, learned Assistant Government Pleader is justified in making the grievance that the Commissioner for Workmen Compensation has no jurisdiction to impose penal interest and that too at the rate of 18%. Shri Y.V.Shah, learned Advocate appearing on behalf of the respondents – original claimants has submitted that he has no objection if that part of the operative portion of the judgment and order passed by the learned Commissioner for Workmen Compensation by which penal interest at the

rate of 18% is imposed, is quashed and set aside.

4. Considering above, the appeal is partly allowed and the operative portion of the order in terms of paragraph Nos. 1,2 and 3 is hereby confirmed and so far as imposing of penal interest at the rate of 18% which is provided under clause (4) of the operative portion is hereby quashed and set aside. The order dated 03.06.2005 passed by the learned Commissioner for Workmen Compensation, Labour Court, Godhra in Workmen Compensation Application No. 28 of 1996 is modified to the above extent. The appeal is partly allowed to the aforesaid extent. However, there shall be no order as to costs.

[M.R.Shah, J.]

satish